

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

TONY CURTIS KILE,

Petitioner-Appellant.

v.

No. 98-6555

GEORGE TRENT, Warden; ATTORNEY

GENERAL OF WEST VIRGINIA,

Respondents-Appellees.

Appeal from the United States District Court  
for the Northern District of West Virginia, at Clarksburg.  
William M. Kidd, Senior District Judge.  
(CA-97-97-1)

Submitted: July 30, 1998

Decided: August 31, 1998

Before WIDENER, LUTTIG, and WILLIAMS, Circuit Judges.

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Vacated and remanded by unpublished per curiam opinion.

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**COUNSEL**

Tony Curtis Kile, Appellant Pro Se. Darrell V. McGraw, Jr., Rory  
Lee Perry, II, OFFICE OF THE ATTORNEY GENERAL OF WEST  
VIRGINIA, Charleston, West Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See  
Local Rule 36(c).

## OPINION

### PER CURIAM:

Appellant seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998). Appellant's conviction became final on September 12, 1995. On April 23, 1997, Appellant filed a § 2254 petition. The district court denied relief because Appellant filed his petition outside the one-year limitation period imposed by 28 U.S.C.A. § 2244(d) (West 1994 & Supp. 1998). Pursuant to our recent decision in Brown v. Angelone, \_\_\_ F.3d \_\_\_, Nos. 96-7173, 96-7208, 1998 WL 389030 (4th Cir. July 14, 1998), Appellant had until April 23, 1997, in which to file a timely petition. Since Appellant filed his § 2254 petition on April 23, 1997, it is therefore timely under Brown. Accordingly, we vacate the district court's order and remand this case for consideration on the merits. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

### VACATED AND REMANDED